

### REMARKS

Claims 1-59 were pending as of the Official Action dated March 23, 2009. Claims 1, 28, 29, 56, 57, and 59 were in independent form.

Claims 1-59 have been canceled. Claims 60-80 are new. No new matter has been added.

Reconsideration of the action are respectfully requested in light of the foregoing amendments and the following remarks.

### **Information Disclosure Statement**

The applicant notes the examiner's indication that the references listed on a PTO-1449 form filed on November 24, 2008 were considered.

### **Claim Objections**

Claim 1 was objected to for allegedly using a relative term that renders the claim indefinite. The applicant respectfully submits that the objections to claim 1 are moot as claim 1 has been canceled.

### **Section 101 Rejections**

Claims 1-28 and 57-59 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. The applicant respectfully submits that the Section 101 rejections of claims 1-28 and 57-59 are moot as claims 1-28 and 57-59 are canceled.

### **Section 102 Rejections**

Claims 1-7, 24, 26, 29-35, 52, 54, and 57 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Daniela Stan et al., "Image Retrieval using a Hierarchy of Clusters," ACM March 2001, Lecture Notes in Computer Science, Volume 2013, pages 377-386 ("Stan"). The applicant respectfully submits that the Section 102 rejections of claims 1-7, 24, 26, 29-35, 52, 54 and 57 are moot as claims 1-7, 24, 26, 29-35, 52, 54, and 57 are canceled.

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### **Section 103 Rejections**

Claims 8-23, 25, 27-28, 36-51, 53, 55-56 and 58-59 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Stan in view of U.S. Patent No. 5,751,286 (“Barber”). The applicant respectfully submits that the Section 103 rejections of claims 8-23, 25, 27-28, 36-51, 53, 55-56 and 58-59 are moot as claims 8-23, 25, 27-28, 36-51, 53, 55-56, and 58-59 are canceled.

### **New Claims**

Claims 60-80 are new. The applicant respectfully submits that new claims 60-80 recite features not taught or suggested by the relied upon portions of Stan, alone, or the proposed combination of Stan and Barber.

The relied upon portions of Stan generally describe clustering methods used in a system for retrieving “most similar images with a query image.” *See, e.g.*, page 380, lines 17 to 24. The relied upon portions of Barber generally describe arranging thumbnails into a collage of images. *See, e.g.*, col. 3, lines 9-22.

The applicant respectfully submits that neither the relied upon portions of Stan, alone, nor the proposed combination of Stan and Barber teach or suggest calculating by a computer image parameters for each reference image where the image parameters characterize color, texture and shape features that are common to the reference image and at least one other reference image; and combining by the computer the calculated image parameters to generate a composite reference image, as recited by new claim 60.

Claims 61-80 are in condition for allowance for at least similar reasons as given for claim 60.

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### **Conclusion**

For the foregoing reasons, the applicant submits that all the claims are in condition for allowance.

By responding in the foregoing remarks only to particular positions taken by the examiner, the applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, the applicant's selecting some particular arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist. Finally, the applicant's decision to amend or cancel any claim should not be understood as implying that the applicant agrees with any positions taken by the examiner with respect to that claim or other claims.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 23 June, 2009

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